

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Transportation

BILL: SB 952

INTRODUCER: Senator Simmons

SUBJECT: Orlando-Orange County Expressway Authority

DATE: February 27, 2013 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Price	Eichin	TR	Favorable
2.			CA	
3.			AP	
4.				
5.				
6.				

I. Summary:

SB 952 re-names the Orlando-Orange County Expressway Authority Law as the Central Florida Expressway Authority Law and:

- revises and makes technical changes to definitions;
- creates the Central Florida Expressway Authority (CFX);
- provides for the transfer of governance and control, legal rights and powers, responsibilities, terms and obligations of the Orlando-Orange County Expressway Authority (OOCEA) System to CFX;
- revises the composition of the governing body of CFX; provides for the appointment of officers; and revises quorum and voting requirements;
- provides that the area served by CFX is within the geographical boundaries of Orange, Seminole, Lake, and Osceola Counties; prohibits CFX from spending funds for SunRail; and limits the use of certain electronic tolls collected in Orange County to projects built in that county;
- removes the requirement that the route of a project be approved by a municipality before the right-of-way can be acquired; requires that CFX encourage the inclusion of local-, small-, minority-, and women-owned businesses in its procurement and contracting opportunities; and removes Orlando-Orange County Expressway Authority (OOCEA) power and criteria to waive payment and performance bonds for certain public works projects awarded pursuant to an economic development program;
- provides that upon termination of the lease-purchase agreement of the Central Florida Expressway System, title in fee simple to the system will be retained by CFX;

- provides for the transfer of the Osceola County Expressway System to CFX;
- provides for the repeal of part V of chapter 348, F.S., when the Osceola County Expressway System is transferred to CFX;
- conforms terminology and makes technical changes; and,
- provides an effective date of July 1, 2013.

This bill amends the following sections of the Florida Statutes: 348.751, 348.752, 348.753, 348.754, 348.7543, 348.7544, 348.7545, 348.7546, 348.7547, 348.755, 348.756, 348.757, 348.758, 348.759, 348.760, 348.761, and 348.765.

II. Present Situation:

Orlando-Orange County Expressway Authority

The OOCEA currently serves Orange County and is authorized to construct, operate, and maintain roads, bridges, avenues of access, thoroughfares, and boulevards in the county, as well as outside the jurisdictional boundaries of Orange County with the consent of the county within whose jurisdiction the activities occur.¹

OOCEA Governing Board

The governing body consists of five members. The Governor appoints three members who are citizens of Orange County and who serve four year terms and may be reappointed. The Orange County mayor and the Florida Department of Transportation's (FDOT) district five secretary are the two *ex-officio* members of the Board.²

OOCEA Facilities

The OOCEA currently owns and operates 105 centerline miles of roadway in Orange County:

- 22 miles of the Spessard L. Holland East-West Expressway (SR 408),
- 23 miles of the Martin Andersen Beachline Expressway (SR 528),
- 33 miles of the Central Florida GreeneWay (SR 417),
- 22 miles of the Daniel Webster Western Beltway (SR 429), and
- 5 miles of the John Land Apopka Expressway (SR 414).

In addition, the OOCEA will independently finance, build, own and manage certain portions of the Wekiva Parkway pursuant to an existing Memorandum of Understanding and lease-purchase agreement between FDOT and the OOCEA. The memorandum, in part, describes both parties' obligations for the construction of the Wekiva Parkway. It sets up a payment schedule and provides bonding limitations for OOCEA to insure OOCEA makes its payment obligations to FDOT. The Legislature in SB 1998 (2012) codified references to the existing Memorandum and lease-purchase agreements and authorized the transfer of the Beachline-East Expressway to the Florida turnpike Enterprise, and payment to FDOT for the asset. The Beachline's estimated value of \$60 million will be used by FDOT to construct portions of the Wekiva Parkway. The OOCEA was required to pay FDOT \$10 million on July 1, 2012, and is required to pay \$20 million every July 1 thereafter to pay out the long-term debt obligation to FDOT. Thereafter,

¹ Section 348.754(2)(n), F.S.

² Section 348.753, F.S.

FDOT's obligation to pay any cost of operation, maintenance, repair, or rehabilitation of the OOCEA system terminates, and ownership of the system remains with the OOCEA. FDOT advises that the OOCEA's long-term debt as of February 28, 2013, is \$229,351,636.79.

Osceola County Expressway Authority

Created in 2010, the Osceola County Expressway Authority (OCX) currently serves Osceola County and has the purposes and powers identified in the Florida Expressway Authority Act, including the power to acquire, hold, construct, improve, maintain, operate, and own an expressway system.³

OCX Governing Board

The OCX governing body consists of six members. Five members, one of which must be a member of a racial or ethnic minority, must be residents of Osceola County. Three of the five are appointed by the governing body of the county and the remaining two are appointed by the Governor. FDOT's district five secretary serves as an *ex-officio*, non-voting member.⁴

OCX Facilities

OCX is not currently operating any facility and has no funding or staff. Staff assistance and other support have been provided by Osceola County. The Florida Transportation Commission indicates efforts in 2011 to finalize an agreement for \$2.5 million in grant funding from FDOT to be used for two Project Development and Environment studies to be conducted by Florida's Turnpike Enterprise. OCX has developed a Master Plan that includes construction of four proposed tolled expressways: Poinciana Parkway, Southport Connector Expressway, Northeast Connector Expressway, and Osceola Parkway Extension.⁵

Seminole County and Lake County

The Seminole County Expressway Authority was abolished by the Legislature in 2011⁶ and is not currently served by any expressway authority. Lake County is also not currently served by any expressway authority.

III. Effect of Proposed Changes:

Section 1: Amends s. 348.751, F.S., to change the short title of part III of ch. 348, F.S., from the "Orlando-Orange County Expressway Authority Law" to the "Central Florida Expressway Authority Law."

Section 2: Amends s. 348.752, F.S., to define:

- "Central Florida Expressway Authority" to mean the body politic and corporate and agency of the state;
- "Central Florida Expressway System," to mean a transportation facility, expressway, or appurtenant facility, and

³ Section 348.0004, F.S.

⁴ Section 348.9952, F.S.

⁵ FTC's *Transportation Authority Monitoring and Oversight Fiscal Year 2011 Report*, p. 165.

⁶ Ch. 2011-64, L.O.F.

- “transportation facilities” to mean and include the mobile and fixed assets, and the associated real or personal property or rights, used in the transportation of persons or property by any means of conveyance, and all appurtenances, such as, but not limited to, highways; limited or controlled access lanes, avenues of access, and facilities; vehicles; fixed guideway facilities, including maintenance facilities; and administrative and other office space for the exercise by the authority of the powers and obligations granted in this part.

Research reveals no language elsewhere in ch. 348, F.S., that would include in any definition or in any other provision under current law the “administrative and other office space” of an expressway authority. This definition presumably would allow CFX to finance or even bond expenses for administrative and other office space.

This section of the bill also deletes the definitions of “city” and “county,” revises various definitions to conform terminology to the re-naming, and makes various other editorial and grammatical changes.

Section 3: Amends s. 348.753, F.S., in which the OOCEA is created, to replace the OOCEA and:

- create the Central Florida Expressway Authority;
- require, effective July 1, 2013, that CFX assume the governance and control of the OOCEA System, including its assets, personnel, contracts, obligations, liabilities, facilities, and tangible and intangible property;
- transfer any rights in such property and other OOCEA legal rights to CFX; and
- provide that the powers, responsibilities, and obligations of the OOCEA shall succeed to and be assumed by CFX on July 1, 2013.

The bill also provides for nine members of the CFX governing board as follows:

- three members appointed by the boards of county commission of Seminole, Lake, and Osceola Counties, who may be a commission member or chair;
- four citizen members, one each from Orange, Seminole, Lake, and Osceola Counties, appointed by the Governor;
- the mayor of Orange County and the mayor of the City of Orlando.

Otherwise, a person who is an officer or employee of a municipality or county may not be an appointed CFX member. The executive director of Florida’s Turnpike Enterprise serves as a nonvoting advisor to the CFX governing body. The Governor’s appointees are to serve four-year terms; county-appointed members are to serve two-year terms; and currently standing OOCEA board members are to complete their terms. In addition, the bill provides for election of CFX officers and requires elections to be held every two years. A member who is a resident of Orange County must be elected as chair every six years and, if a member from Orange County is not serving as chair, a member who is a resident of Orange County must be elected to serve as vice chair. This section of the bill also makes editorial and grammatical changes and conforms terminology to the re-naming.

Section 4: Amends s. 348.754, F.S., setting forth purposes and powers, to:

- provide, with specified exception, that the CFX area served is within the geographical boundaries of Orange, Seminole, Lake, and Osceola Counties;
- include in the authority to construct the Central Florida Expressway System rapid transit, trams, fixed guideways, thoroughfares, and boulevards;
- prohibit CFX from spending system funds for SunRail;
- require that electronic tolls collected on the expressway system from vehicles registered in Orange County be used to finance projects built in Orange County;
- authorize CFX to construct, operate, and maintain roads and bridges, and electronic toll payment systems on the roads and bridges, outside the boundaries of Orange, Seminole, Lake, and Osceola Counties with the consent of the county within whose jurisdiction the activities occur;
- remove the municipal governing board approval of a project route currently required before acquisition of right-of-way for an OOCEA project within the boundaries of Orange County;
- require CFX to encourage the inclusion of local-, small-, minority-, and women-owned business in its procurement and contracting opportunities;
- remove provisions authorizing the OOCEA to waive payment and performance bonds on certain construction contracts and related small business provisions; and
- make editorial and grammatical changes and conform terminology to the re-naming.

Sections 5 - 11: Amend ss. 348.7543, 348.7544, 348.7545, 348.7546, 348.7547, 348.755, and 348.756, F.S., relating to bond financing authority for improvements, construction and financing of the Northwest Beltway Part A, construction and financing of the Western Beltway Part C, construction and financing of the Wekiva Parkway, construction and financing of the Maitland Boulevard Extension and Northwest Beltway Part A realignment, bonds of the authority, and remedies of the bondholders, respectively, to make editorial and grammatical changes and conform terminology to the re-naming.

Section 12: Amends s. 348.757, relating to lease-purchase agreements with FDOT, to replace direction that the lease-purchase agreement between OOCEA and FDOT provide, upon completion of the OOCEA System, title in fee simple be transferred to FDOT, with direction that the agreement provide that title in fee simple be retained by CFX; and to make editorial and grammatical changes and conform terminology to the re-naming.

Section 13 – 17: Amends ss. 348.758, 348.759, 348.760, 348.761, and 348.765, F.S., relating to appointment of FDOT as construction agent for the authority; acquisition of lands and property; cooperation with other units, boards, agencies, and individuals; covenant of the state; and complete and additional authority, respectively, to make editorial and grammatical changes and conform terminology to the re-naming.

Section 18: Transfers all powers, governance, and control of the Osceola County Expressway System, and the assets, liabilities, facilities, tangible and intangible property and any rights in the property, as well as any other legal rights, to CFX on July 1, 2014; and repeals part V of chapter

348, F.S., consisting of ss. 348.9950 – 348.9961, on the same date that the Osceola County Expressway System is transferred to CFX.

Section 19: Provides the act shall take effect on July 1, 2013.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

Indeterminate.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
